

# In the Supreme Court of the Hawaiian Islands--In Equity. In Chambers.

YIM QUON vs. A. J. CARTWRIGHT GUARDIAN OF GEORGE HOLT AND ANNIE HOLT.

BEFORE JUSTICE J. DAVIES.

The bill alleges a demise by Wai-aha and Kaula her husband, to the complainant, of a piece of land upon Maunakea street, Honolulu, for fifteen years from December 1st, 1881, at \$25 per month, payable monthly in advance. That said lease contains a covenant for quiet enjoyment. That the reversion had been conveyed to George Holt and Annie Holt, minors, and that the defendant, Cartwright, had been duly appointed guardian. That the complainant had attorned and paid rent to the defendant as such guardian. That on the 18th of April, 1886, the buildings upon said land were destroyed by the fire that then swept over a large portion of the city. That immediately after the said fire the then Minister of the Interior issued a proclamation forbidding the rebuilding of structures upon certain portions of the burnt district, including the land so leased to complainant. That sometime after, in the said month, the Hawaiian Government, acting under its right of eminent domain, took possession of, and evicted complainant from more than one half of said premises, and that said eviction continues. That a portion of said premises from which complainant has been evicted consists of a strip about ten feet wide along said Maunakea street and incorporated therein, and another strip about thirty feet wide along the makai side of said premises, which has been incorporated in New street. That the value of the premises left in possession of complainant is only one half of the value of the whole premises comprised in said lease. That complainant has received no compensation from any source for such eviction. That complainant has paid no rent since said month of April, but has offered to pay a proportional part to the defendant, and that defendant has refused, and avers continual readiness and willingness to pay such proportional part.

The bill then avers, proceedings by the defendant in the Police Court, Honolulu, against the complainant for a forfeiture for non-payment of rent, and prays for an apportionment of the rent and an injunction against the proceedings in the Police Court.

The defendant demurs to the bill.

1. For want of equity.—And which was chiefly relied upon in the argument.

2. That it nowhere appears in said complaint that the complainant has been evicted from any portion of the premises, by a paramount title, or that the eviction alleged was legal, or that the Hawaiian Government has taken such steps as to acquire and perfect a legal title to such portions of said premises as complainant claims to have been evicted from, or that the eviction has continued to be, and now is legal, and by a paramount title.

I am of opinion that the bill discloses sufficient equity to put the defendant to answer. The bill might have alleged the matter more specifically, but it does allege an eviction by the Hawaiian Government by right of eminent domain, and I think I must presume, for the purposes of this case, that the Government has done all that is necessary by law to entitle them to evict the complainant.

This is a matter of fact which must be proved at the hearing, if disputed by the defendant.

Supposing the allegations to be true, the complainant would be entitled to have the rent apportioned, unless by his conduct or neglect he may have deprived himself of this right as against the defendant.

I cannot understand by the allegation, that he has not received any compensation, whether none has been awarded to him or if awarded it has not been paid.

I overrule the demurrer, the defendant may answer within fourteen days.

Ashford & Ashford for complainant; W. A. Kinney for defendant.

March 9, 1887.

## The Salvation Army.

From a summary of the operations of the Salvation Army just compiled, it appears that the work of the army has gone forward in 1886 with even greater vigour than in any former year. At the close of last year the army comprised 1322 corps under 3076 officers, while at the present time there are 1749 corps and 4192 officers, being an increase in the year of 427 corps and 1116 officers. In the first week of the year 25,496 meetings were held, against 29,733 in the last week. The total receipts, for the year were £73,430, as compared with £69,768 in the preceding year. Upwards of 1200 buildings were used by the various corps, for which rentals were paid amounting to £180,000. As many as 236 buildings had been built or altered during the year at a cost of £27,805, providing accommodation for 116,092. There had been sent abroad 195 officers at a cost of £2732. In the London district alone there were 75 corps and 133 officers, an increase of 18 corps and 48 officers. Operations had at length been commenced in Carnarvan, and it had been resolved to establish a perfect Welshspeaking army. The Salvation Navy had become during the year a powerful organization, and scores of vessels were now flying the Salvation flag. At the beginning of the year they had 520 corps and 1296 officers abroad, while they had now 743 corps and 1932 officers. In connection with the rescue work they had not only maintained the homes already established, but had opened others at Cardiff, Wisbech, and Northampton. The number of girls now under their care in these establishments was over 150,

and 410 were in good situations. The work among the discharged prisoners had been thoroughly organized and developed during the year.

## The Position of England.

Major Wachs, a Prussian, has just published a highly interesting essay on "The International Position of England," with special reference to Russia." He arrives at the conclusion that the English Navy is insufficient to maintain the position she has hitherto held among the nations, the predominance of commercial interests having prevented England from recognizing the fact and taking steps to avert this great and near danger. The author expresses the hope that England may at length awake and again assume the high position which she so long held, and which is her due.

## A New Portia.

A new Portia, who defended, however, not her lover, but her own father, has appeared at Montpellier. A farmer living near that town had been tried and condemned for breach of trust. He made an appeal which was granted; and on the day appointed for its hearing he walked into court accompanied by his daughter, a tall, good-looking and intelligent young woman, about twenty-six years old. To the surprise of the judges, the young woman opened her father's case in a masterly manner, argued the defense with the skill of a practiced lawyer, and finally gained for her client a verdict of acquittal. The improvised legal practitioner in petticoats then walked triumphantly out of court, hanging on the arm of the venerable agriculturist, her parent.

## General Lee.

The leading article in Macmillan's Magazine for March is by General Lord Wolseley on General R. E. Lee. He says: "Over and over again was the South apparently within a stone's throw of independence, when, from the want of a thoroughly competent staff to organize pursuit, the occasion was lost and the enemy allowed to escape. Lee's combinations to secure victory were the conceptions of a truly great strategist, and when they had been effected, his tactics were almost everything that could be desired up to the moment of victory, but there his action seemed to stop altogether. A critical military student of this war, who knew the power which regular troops, well officered and well directed by a thoroughly efficient staff, placed in the hands of an able General, and who has acquired an accurate and complete knowledge of what those two contending American armies were alike, will agree from first to last that the co-operation of even one army corps of regular troops would have given complete victory to which ever side it fought on. One of his faults were too great a dread of wounding the feelings of others, which led him to have incompetent men to fill important positions. Lee's devotion to duty and great respect for obedience seem at times to have made him too submissive to those charged with the civil government of the country. He carried out too literally the orders of those whom the Confederate Constitution made his superiors, although he must have known them to be entirely ignorant of the science of warfare. Is it to be supposed that Cromwell, King William III, Washington or Napoleon could have succeeded in the revolutions with which their names are identified had they submitted to the will and authority of men of position, as he did to Mr. Davis?"

"When all the angry feelings roused by secession are buried with those which existed when the Declaration of Independence was written; when Americans can review the history of their last great Rebellion with calm impartiality, I believe that all will admit that Lee towered above the men on either side of that struggle. I believe that he will be regarded not only as the most prominent figure of the Confederacy, but as the greatest American of the nineteenth century, whose statue is well worthy to stand on an equal pedestal with that of Washington, and whose memory is equally worthy to be enshrined in the hearts of all of his countrymen."

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[1147 6m]

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[1154 3m]

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Honolulu, May 2, 1884. [1147 1y]

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CAUTION.—Vice-Chancellor Sir W. Page Wood stated that Dr. J. Collis Browne was, undoubtedly, the inventor of Chlorodyne; that the story of the defendant Freeman was deliberately untrue, which he regretted to say, had been sworn to.—See "The Times," July 13, 1884.

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